

# **Crime Laboratory Commission Meeting**

**December 16, 2004**

**Department of Attorney General**

**150 South Main Street**

**Providence, RI 02903**

**3rd Floor Conference Room**

**10:00 a.m.**

**In attendance were Deputy Attorney General Gerald Coyne, Department of Attorney General; Director Dennis Hilliard, Rhode Island State Crime Laboratory; Colonel Steven Pare, RI State Police; Senator Leo Blais; Representative Carol Mumford; Chief George Kelley, RIPCA; Dean Donald Letendre, URI College of Pharmacy.**

## **I. INTRODUCTION**

### **A. Welcome to Commission Members**

**Deputy Attorney General Gerald Coyne, representing Attorney General Patrick Lynch, introduced and welcomed commission members calling the meeting to order at 10:10 a.m.**

### **B. Minutes of October 21, 2004 Meeting and November 5, 2004 Special Commission Meeting**

**Deputy Attorney General entertained a motion to approve the minutes of the October 21, 2004 and November 5, 2004 special meeting.**

**Senator Blais made a motion to accept the minutes, with Representative Mumford seconding the motion. All being in favor, the minutes of both meetings were approved.**

## **II. FUNDING**

### **A. FY04 & FY05 update**

**Director Hilliard distributed to commission members a package containing a summary of the current budget and past years for their review. There is a balance in FY04, which was mentioned at the last meeting of approximately \$12,519, that Director Hilliard is asking commission members to approve transferring into FY05.**

**Deputy Attorney General Coyne asked commission members to authorize the transfer of these funds to FY05. Senator Blais moved with Representative Mumford seconding the motion. All members being in favor, the motion was passed.**

**Director Hilliard spoke regarding two new hires. Mr. Mark Zabinski, who was approved of at the last meeting, and Kim Freeland, who needs to be approved by the Commission.**

**Colonel Pare made a motion for the hiring of Ms. Freeland as Technician I, with Representative Mumford seconding the motion. All members being in favor, the motion was passed.**

**Director Hilliard stated there will be savings from salary and benefits from 12 pay periods of approximately \$30,000. Director Hilliard would like to move those from personnel expenses into equipment and supplies, to purchase new desks, computers, phones, etc.**

**A Byrne Grant has been authorized through the RI Justice Commission in the amount of \$95,750 for the first year. Half of that will be spent on salaries and expenditures. Two consultants were hired to write the accreditation manual, one in the Crime Laboratory and one in the Health Department Laboratory.**

**A letter was received from the Justice Commission saying we have been awarded \$125,000.**

**B. CITA Grant update**

**Director Hilliard noted nearly all monies have been expended; it is expected the final funds will be expended by the end of this year.**

**C. Coverdell update**

**FY02 and FY03 have been spent mostly on the outside agency coming in and doing an audit.**

**Coverdell FY04 has approximately \$34,000, which will be used to pay the second phase of accreditation. When we are ready for accreditation, the group will come back in and do a re-audit and let us know if we need to fix anything before going for the final audit, which**

**will be paid for by the Byrne 04 grant.**

#### **D. Homeland Security/Safe Streets Grants update**

**Safe Street grant is being expended on overtime for Lawrence Pilcher to make NIBIN entries and NIBIN related comparisons.**

### **III. LABORATORY STATUS - PERSONNEL**

#### **A. Progress Reports/Caseload**

**With the addition of both Kim Freeland and Mark Zabinski, the backlog should be reduced over the next six months. Last meeting there was approximately 200 firearm, we are down to 179 cases, in addition to the new cases coming in. In latent prints we have 5 cases, 28 cases backlog in NIBIN system, and approximately 93 cases in trace.**

**There have been approximately 240 cases and 1,180 exhibit items in the last six months. Most common cases are firearms violation, arson, ADW, homicide and robbery. Providence Police Department is the leading agency submitting 99 cases.**

**Enclosed is a letter from Chief Carlone, New Shoreham Police Department recognizing the work that both Amy Duhamel and Ed Downing had done on a recent case.**

**Director Hilliard continues to visit with various public groups,**

**lecturing at eight different organizations.**

**The Laboratory hosted a tour for the Naval War College International Law Student Program.**

**Director Hilliard and Amy Duhamel both guest lectured in a URI Biotechnology course.**

**Director Hilliard participated in a web-chat that was on line by URI, where he received questions from the general public.**

**Channel 12 interviewed Director Hilliard on CSI effect on jurors to be aired February 2005.**

## **B. RISP/Laboratory Building**

### **a. Design Status**

**Director Hilliard brought with him a small-scale drawing of what the State Crime Laboratory will look like. Also, he made available for commission members a larger scale drawing of the entire design. Everything seems to be on track with October 2005 being the ground breaking date and April 2007 as the occupation date.**

### **b. Memorandum of Understanding**

**Dean Letendre would like to address commission members regarding the Memorandum of Understanding. Taking the draft Mr. Weygand had put together, and the redraft from the Commission Meeting on**

**November 5th, Dean Letendre reviewed and included some new language, distributing his version to commission members for their review.**

**Colonel Pare wanted to reiterate that this is not a State Police takeover. It seems the interest of DOH employees have not been fully explored and protected. There have been agreements the FTE's will be transferred to URI; however, the interest of the employees have to be considered by this Commission. URI does not manage that function of the Crime Lab that occurs at DOH. This is a shift in that.**

**It is important to identify those positions in this MOU. If necessary, come back in a year or two and change it, if it needs to be changed. Also looking at the language that explicitly says "URI will manage and the Commission will continue to be the oversight."**

**Director Hilliard agreed to attach an organizational chart to the MOU identifying the positions in the laboratory as well as DOH. The centralized Crime Laboratory will be operated under the University's authority with oversight by the Commission. The positions will move to the new facility. That person will be able to keep their current position and move. If you make everyone a non-classified employee, so as people come in they will maintain their classified status until they retire then those positions will become non-classified and will follow the rules of the University. The important thing is to get the positions. Right now there are ten positions, two of which are vacant.**

**Deputy Attorney General Coyne felt there needs to be a solid memorandum that we all support and then forward it to Bob Weygand, Jerry Williams and Dr. Nolan, and invite them to meet with us. Let them know the Commission is speaking as one voice.**

**After a discussion and review by all commission members it was decided the MOU would read as follows:**

**Deputy Attorney General Coyne – paragraph one, will read, “The voters in a referendum of 2002 approved the construction of a new State Police facility at a centralized location. As part of the construction of the new State Police facility, the crime laboratory services will be centralized and consolidated. The Forensic Laboratory facilities at the Department of Health and the State Crime Laboratory at the University of Rhode Island will be relocated to this centralized facility. It is expected that the Forensic Science Laboratory, including the functional areas of forensic biology (DNA), drug chemistry and breath analysis will be transferred to the State Crime Laboratory. The Office of the Medical Examiner and the toxicology laboratory that supports that office will remain with the Department of Health.**

**Paragraph two – It is agreed by all parties that the newly configured centralized State Crime Laboratory, as represented in item #1 above, will continue to be operated by the University of Rhode Island with**

oversight by the State Crime Laboratory Commission as specified in the State's General Laws, and will be hosted by the Rhode Island State Police at their facility. The FTE's from the Department of Health and State Crime Laboratory as set forth in the attached appendix, that are relocated to this centralized facility will become employees of the University of Rhode Island and the requisite funding for those positions will be transferred to the State Crime Laboratory line item within the budget of the Department of the Attorney General.

There will be a separate list, which will list the FTE's. Director Hilliard will get the FTE's listing to Deputy Attorney General Coyne.

Paragraph three – The University of Rhode Island will continue to maintain and operate an office of the State Crime Laboratory at the Kingston Campus and may expand activities that serve to complement those offered at the centralized facility. In this way, the University of Rhode Island in concert with the State Crime Laboratory, will continue to preserve it's fundamental mission through promotion of research and enhancement of educational programs. Staff members of the Crime Laboratory may serve as faculty or lecturers (contingent upon qualifications) at the University. Conversely, University faculty, staff, and students may, through the Forensic Science Partnership, serve in research or intern positions within the State Crime Laboratory. The utilization and exchange of faculty, staff and students between the University and the Crime Lab will be encouraged.



**Paragraph four – The University of Rhode Island, Department of Health and the State Crime Laboratory agree to use best efforts to work together.**

**The Commission agreed to the following signatures being required on the signature block; Beverly E. Najarian, Director, DOA; Patrick C. Lynch, Attorney General; Steven M. Pare, Colonel, RI State Police; Robert L. Carothers, President, URI; Patricia A.Nolan, Director, DOH.**

### **C. Systems Updates**

#### **a. NIBIN Update**

**Director Hilliard spoke regarding the NIBIN Update. Adel Irizarry is working with Lawrence Pilcher to clear up the backlog. They have had 26 matches on the system, mostly within the City of Providence, with a few from Pawtucket. This is a system that is fully paid for by ATF and there are no out of pocket costs.**

#### **b. AFIS Update**

**Director Hilliard stated there is now an AFIS working station in the laboratory, which was installed in September. There were some technical issues, which have since been addressed.**

#### **i. Cogent maintenance costs**

**Director Hilliard spoke with regard to the maintenance fees. They**

broke up the maintenance fees between the Attorney General's office, the Rhode Island State Police and the State Crime Laboratory. The fees are expected to start approximately 12 months from now. Costs to the Rhode Island State Crime Laboratory and RI State Police will be approximately \$15,548.00 each, with the Department of Attorney General cost approximately \$46,644.00. This is a total approximate cost of \$80,000, which was not included in the FY06 budget. There will have to be an amendment.

Deputy Attorney General Coyne stated instead of paying per costs, we have now bought the system and will make payment instead of paying per diem for each transaction. This gives us the ability of knowing what our costs are going to be, which for us is an advantage. It is a far better pricing arrangement.

The system we have right now is superior to the one that it replaced. We have a three-year MOU with Connecticut, so in three years we know that the system we have will be good and still be up to date. Assuming that gets renewed, three years out, whoever is sitting on this Commission has to take a hard look at upgrading. It does us no good to upgrade if Connecticut doesn't upgrade. If Connecticut upgrades we have to upgrade, because we are a satellite of Connecticut. In three to four years we have to decide if we want to maintain the same relationship with Connecticut. If we don't we can break away and consider getting our own; however, there are a lot of cost factors. We have to be mindful of our relationship with

**Connecticut. We can't do anything to jeopardize the Connecticut system. Their investment is much more than ours.**

### **c. Salary Survey**

**At the last Commission meeting Director Hilliard was asked to do a survey comparing salaries. Having similar population structures, Director Hilliard concentrated on the Northeast area, including Delaware, Montana, West Virginia, and Idaho. The State Crime Laboratory falls mostly in the middle in most cases, and falls pretty much in line with what the other state guides are. The DOH positions are in a similar category, sometimes they're bottom is higher than our bottom sometimes our top is higher than their top. Also, you have to consider a lot of these states offer automatic steps. That's not the way we do it in the Crime Laboratory. Although we have steps they are not automatic. Director Hilliard comes to the Commission asking to give a merit step increase to employees. That is the only way they can go up a step. Director Hilliard's salary is in the middle.**

**Colonel Pare asked that Director Hilliard be excused from the room. Director Hilliard left the room.**

**Colonel Pare felt once the MOU and the employees from DOH are in place Director Hilliard's salary should be considered; however, now is not the time.**

**Dean Letendre questioned what sort of time frame we are talking**

about.

Deputy Attorney General Coyne stated there will be more credibility to do it once the laboratory has been combined. Once the MOU is signed and we begin to know who is coming over and what salary grade they will be coming over at, we can make a decision. We have to be documentation conscious in terms of what we're asking for. Once we get the MOU signed, we get a subcommittee that looks at Director Hilliard as an individual. That allows Director Hilliard to participate and advocate on behalf of everyone else.

Director Hilliard was escorted back into the room.

Colonel Pare mentioned to Director Hilliard that once the MOU is signed, a sub-committee will be established to look at his contract. The Commission recognizes the amount of work and responsibility Director Hilliard will be undertaking.

#### **IV. NEW BUSINESS**

##### **A. State Crime Laboratory Commission Status**

###### **a. Separation of Powers Act**

Representative Mumford asked what is going to happen when the legislatures are off this Commission?

**Deputy Attorney General Coyne stated if the legislature leaves it would reduce the size of the commission; however, at this time he has not seen any language about who would appoint once there becomes room on any of the commissions.**

**B. Items from the Floor**

**a. Collection of Bodily Substances Pursuant to a Search Warrant**

**Director Hilliard participated with the Attorney General's staff on an item that came out of legislation regarding body fluids for DNA and/or for DUI. We worked together on a project, the rules and regulations relating to collection of bodily substances pursuant to a search warrant. There will be a public hearing January 12, 2005. The rules are in effect now so the police can collect bodily fluids with a search warrant.**

**Deputy Attorney General stated when the bill was enacted last year to allow that, one of the caveats of the bill was that the collection would be done pursuant to rules and regulations. The rules and regulations have not been done. They have now been implemented on an emergency basis.**

**Senator Blais asked if they are not filed as an emergency, is the regular process that they are heard at a public hearing and then there is a (20) twenty day waiting period?**

**Deputy Attorney General Coyne stated (20) twenty days after the hearing is part of the adoption process.**

**Director Hilliard noted because there may be amendments.**

**Senator Blais considered that if there are no amendments after the hearing and the (20) twenty-day waiting period goes, then that would be the date of promulgation?**

**Director Hilliard stated that was correct.**

**Colonel Pare stated there should be consideration at this legislation session to create the centralization of the crime lab. It really is the Commission's position to create some legislation that would be reflective of the centralization of the crime lab.**

**Deputy Attorney General Coyne suggested, the Attorney General's legislative people, along with the State Police work with Director Hilliard and put together a draft to be ready by the middle of January.**

**A motion was made to adjourn, with all commission members being in favor, the meeting was adjourned at 11:35 a.m.**

**Minutes taken and transcribed by:**

**Teresa A. Dorrance, Department of Attorney General**